

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION
NO. 7:17-CR-25-1H

UNITED STATES OF AMERICA,

v.

TAMER AHMED QAID SAID RABEH,

Defendant.

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ORDER

This matter is before the court on defendant's motion to suppress [DE #39] and defendant's motion to dismiss [DE #50], to which proper responses and replies were filed. Following an evidentiary hearing on February 20, 2018, on the motion to suppress, and oral argument from counsel at that same hearing as to the motion to dismiss, United States Magistrate Judge Kimberly A. Swank entered a memorandum and recommendation (M&R) on each of the motions on May 1, 2018 [DE #57 and #58] recommending denial of the motions. The defendant filed objections, as well as a notice of correction. The government responded to the objections to the motion to dismiss. These matters are ripe for adjudication. Under Rule 59(b) of the Federal Rules of Criminal Procedure, a district judge must consider de novo any portion of the M&R to which objection is properly made.

Defendant objects to the M&R recommending denial of his motion to suppress, noting the following specific objections: (1) defendant objects to the court's finding that Rabeh was "purportedly" married to Mrs. Howard in 2016; (2) defendant objects to the court's finding that Lt. Ramos believed Mr. Rabeh understood and validly waived his Miranda rights; (3) defendant objects to the court's finding that Rabeh is not extremely limited in the English language; (4) defendant objects to the finding that Rabeh had sufficient English proficiency to understand the verbal advisement of his rights provided; (5) defendant objects to the finding that the Sixth Amendment was satisfied by the advisement of the Miranda rights by Agent Swivel after Rabeh had been formerly charged ; (6) defendant objects to the finding defendant's argument regarding the staleness of the Miranda warnings rendering the subsequent waiver invalid is meritless; and (7) defendant objects to the finding that Rabeh understood his rights and made a deliberate choice to relinquish his right to remain silent by acting in a manner inconsistent with the exercise of that right.

Defendant objects to the M&R on the motion to dismiss, noting the following specific objection: Defendant objects to the finding that the government's disclosure complied with Brady.

The court has reviewed each of the matters to which defendant objects de novo. After careful consideration, the court finds the magistrate judge has made proper and correct factual findings and

legal conclusions and finds the objections to be without merit. While defendant is not a fluent English speaker, the facts, when taken as a whole, show Rabeh had a sufficient understanding of English to make a knowing and voluntary waiver of his rights.

This court, having conducted a de novo review of the M&R and other documents of record, finds the recommendations of the magistrate judge are in accordance with the law and should be approved.

Accordingly, the court hereby adopts the recommendations of the magistrate judge as its own; and, for the reasons stated therein, the defendant's motion to suppress [DE #39] and motion to dismiss [DE #50] are hereby DENIED.

This 2nd day of August 2018.



Malcolm J. Howard
Senior United States District Judge

At Greenville, NC
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